

The Italian 5 per cent tax on Swiss pensions and capital benefits

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Italian domestic law grants Swiss pension benefits a preferential treatment that makes Article 18 particularly favourable for Italian residents. Article 76 paragraph 1 of Law No. 413 of 30 December 1991 provides that pensions paid by the Swiss old-age and survivors' insurance (AVS, in German AHV) to Italian residents are subject to a withholding tax of 5 per cent, applied by the Italian intermediaries through which they are paid. Paragraph 1-bis extends the rule to benefits paid by the Swiss occupational pension system (LPP, in German BVG), "in whatever form paid", including capital benefits.¹ In Resolution No. 3/E of 27 January 2020, the Agenzia delle Entrate held that the 5 per cent rate presupposed the intervention of an Italian financial intermediary. Benefits credited directly to a Swiss account without passing through an Italian intermediary were subject to the ordinary taxation, in the case of capital benefits to separate taxation under Article 17 paragraph 1 lit. a TUIR.²

That restriction no longer applies. Paragraph 1-ter of Article 76, inserted by the Budget Law for 2023 (Law No. 197 of 29 December 2022), extends the 5 per cent rate to sums "wherever paid" by the AVS and by the LPP institutions, including early retirement benefits. In its answer No. 125 of 3 June 2024, the Agenzia delle Entrate confirmed that an Italian resident who receives AVS pensions and LPP benefits directly in a Swiss account may apply the 5 per cent tax himself. He declares the benefits in section RM of the income tax return, in the section reserved for income subject to substitute tax, and pays the tax with the F24 payment form under tax code 1242. The tax applies to the gross amount, before any Swiss source tax. The taxpayer may then reclaim the Swiss source tax, which is not credited in Italy.³ The difference is large. Under separate taxation, a capital benefit is taxed at the rate applicable to a reference income obtained by dividing the amount by the years of contribution and multiplying the result by twelve, and the tax office later recalculates the tax at the taxpayer's average rate of

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the five preceding years. For a former manager the result can approach the top IRPEF rate of 43 per cent plus surcharges.⁴ Under the 5 per cent regime, a capital benefit of CHF 500,000 costs CHF 25,000 in Italian tax. For Italian residents who have worked in Switzerland, and particularly for former frontier workers and for Italians who return to Italy after a career in Lugano, the regime is a significant advantage. It also makes the Swiss refund procedure worthwhile, since the Swiss source tax would otherwise be a final cost. The beneficiary must coordinate the two procedures. He declares the benefit in Italy and pays the 5 per cent tax, obtains confirmation of the declaration, and then files the Swiss refund claim within three years.

Essentials. Private pensions and capital benefits from Swiss occupational pension funds paid to Italian residents are taxable only in Italy (Art. 18 of the convention). Switzerland deducts source tax but refunds it in full if the recipient proves within three years that the benefit has been declared in Italy. Italy taxes AVS pensions and LPP benefits, including lump sums and benefits received directly in Switzerland, at a flat 5 per cent on the gross amount (Art. 76 paras. 1, 1-bis and 1-ter of Law No. 413 of 1991; answer No. 125 of 3 June 2024). Public-sector pensions paid to nationals of the paying state remain taxable only in that state (Art. 19).

1 Notes

1. Agenzia delle Entrate, Resolution No. 3/E of 27 January 2020, <https://www.fiscoetasse.com/index.php/files/9316/risoluzione-3-27-01-2020.pdf> (Art. 76 paras. 1 and 1-bis of Law No. 413 of 1991). ↩
2. Resolution No. 3/E of 2020 (above). ↩
3. Agenzia delle Entrate, Risposta No. 125 of 3 June 2024, https://agenziaentrate.gov.it/portale/documents/20143/6193302/Risposta+n.+125_2024.pdf/fbc80d8c-c56a-42b7-0ae4-e306283d5010; Samuele Valente, "Tassazione pensioni svizzere: imposta sostitutiva del 5%", *Diritto.it*, 4 March 2025, <https://www.diritto.it/?p=234951>. Para. 1-ter was inserted by Law No. 197 of 29 December 2022, Art. 1 para. 77, as stated in Risposta No. 125 of 2024. ↩

4. TUIR, Art. 17 para. 1 lit. a (separate taxation of severance-type benefits, including capitalized pensions), <https://brocardi.it/testo-unico-imposte-redditi/titolo-i/capo-i/art17.html>; Art. 19 paras. 1 and 2 (rate on the reference income "dividendo il suo ammontare ... per il numero degli anni ... e moltiplicando il risultato per dodici"; recalculation at the average rate of the five preceding years), <https://brocardi.it/testo-unico-imposte-redditi/titolo-i/capo-i/art19.html>; Art. 11 para. 1 (top IRPEF rate of 43 per cent above EUR 50,000), <https://brocardi.it/testo-unico-imposte-redditi/titolo-i/capo-i/art11.html>. ↩

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